IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 145 of 1982

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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KISHANCHAND GOPICHAND PAMNANI - Appellant(s)
Versus
RAVINDRA G PATEL & 1 - Defendant(s)

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Appearance :
MR JITENDRA M PATEL for Appellant(s) : 1,
MR PV NANAVATI for Defendant(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 28/07/2006

ORAL JUDGMENT

1. This appeal is directed against the judgement and award dated 27.2.1981, passed by the Motor Accident Claims Tribunal No. IV, Ahmedabad in M.A.C. application No. 90 of 1980 whereby the Tribunal directed original opponent No. 1 and 2 to pay sum of Rs. 12,500/- to the appellant by way of compensation. The preset appeal is for enhancement.

2. The short facts of the case are that on 24th November, 1979 at about 11.00 a.m. the appellant was

driving his own scooter bearing Registration No. 2558. At that time autorickshaw bearing Registration No. GRS 2302 driven by original opponent No. 1 came at excessive speed and collided with the appellant's scooter as a result of which the appellant sustained injuries and the scooter was damaged. Therefore, appellant claimed Rs. 25,000/- by way of compensation.

3. Learned advocate for the appellant has submitted that Tribunal ought to have awarded Rs. 9,000/- for pain, shock and suffering and for loss of aminities to the appellant. He further submitted that Tribunal ought to have relied on the amounts of medical expenses stated in the affidavit by the appellant. In the absence of any contrary evidence, it was an error on the part of the Tribunal to grant Rs. 500/- only.

4. On perusal of the documents placed on record it is found that the Tribunal has observed that the appellant has suffered is a small loss of grip of the left palm and it is difficult to see as to how it will materially come in his way of earning in cloth, business. Therefore in my view the functional loss be anything, it is not likely to

commensurate with the avocational loss. Avocational loss will be much less than the functional loss. Therefore Tribunal awarded Rs. 6,000/- for future pecuniary loss which is just and proper. Further Tribunal observed that the appellant had a fracture of remiscolles (left) and his wrist required to be immobilised for in all five weeks. Therefore Tribunal awarded Rs. 5,000/-. I am in complete agreement with the reasonings adopted and the findings arrived at by the Tribunal. No case is made out to cause interference. Hence the appeal stands disposed of. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*